



## THE CITY OF SAN DIEGO **MANAGER'S REPORT**

DATE ISSUED: December 5, 2001 REPORT NO. 01-271

ATTENTION: Land Use and Housing Committee  
Agenda of December 12, 2001

SUBJECT: Utility Trenches in City Streets

REFERENCE: Manager's Report No. 96-14  
Manager's Report No. 96-88  
Manager's Report No. 99-182  
Manager's Report No. 00-32

### SUMMARY

Issue: Should the Committee forward to City Council for approval the attached draft ordinance amending the Municipal Code to provide for utility trench cut limitations, excavation fees and related matters?

Manager's Recommendation: Forward to City Council for approval the attached draft ordinance amending the Municipal Code to provide for utility trench cut limitations, excavation fees and related matters.

Other Recommendations: None.

Fiscal Impact: None. The City complies with the language in the draft ordinance as we have in place a policy to resurface streets on our utility projects.

### BACKGROUND

Last year the Committee heard a report from staff responding to concerns having to do with the impacts of private (non-City) utilities trenching City streets. These concerns included interfering with the useful life of the streets. At that point in time staff, through the use of a consultant specializing in pavement design, had completed a draft report entitled "Evaluation of Utility Cut Patching on Pavement in the City of San Diego." Included in the Manager's recommendation

were items relating to the imposition of a “trench cut fee” and enacting a trench moratorium on newly resurfaced streets.

At that meeting the Committee directed staff to implement a three year moratorium on trenching of newly resurfaced streets and to review alternatives to trench cut fees that would accomplish the goal of the “reimbursement” of the loss of service life of streets. We were specifically asked to include warranties in our analysis.

## DISCUSSION

Since the time of that meeting staff has implemented the three year moratorium administratively and conducted extensive research on the alternatives available. This research has included the review of what other jurisdictions have enacted. Based on this research, an ordinance has been drafted (Attachment A) which would implement the following:

1. Require that a utility or other party excavating a City street pay an Excavation Fee, as a condition of receiving a City permit, unless they do one of the following:
  - a. Agree to a Warranty Agreement in which they guarantee the integrity of the street in which they worked for the period of time of the useful life of that street prior to their doing work. This agreement would obligate them to regularly monitor the condition of the street, repair the street in the event of a problem, indemnify the City for their work, pay liquidate damages in the event a street that has a problem isn’t corrected, and submit a performance bond to the City.
  - b. Enter into an agreement with the City in which they obligate themselves to resurface the street upon the completion of their work.
2. In the event they elect to pay the Excavation Fee, they would pay an amount that is set by the City Council periodically by resolution adopted pursuant to the attached ordinance. The amount of the fee is dependent on the type of street and the service life that remained at the time of their performing the excavation. This fee would be paid when they obtain a permit and be deposited in a special fund to be used specifically to maintain the right-of-way.
3. Modifies the Municipal Code to include the three year trench moratorium previously implemented administratively by staff. This three year moratorium would apply in all cases unless the City Engineer is convinced that a dangerous or unhealthful condition exists and would be resolved by an excavation, or that a necessary service (i.e. electricity, telephone) cannot be provided to specific location through an existing conduit or using trenchless technology. In such cases they would have to pay the Excavation Fee.
4. Modifies the Municipal Code to require that utilities only need to submit plans prepared by a registered engineer if they are not utilizing the City Standard Drawings for public works construction in the right-of-way.

It should be noted, in respect to the Excavation Fee, that for the City’s water and sewer projects the City Council already requires that these projects resurface the Street curb-to-curb which satisfies the alternative requirement in lieu of paying the fee.

## ALTERNATIVE RECOMMENDATIONS

1. Enact the procedures relating to the Excavation Fee but not the moratorium. This is not recommended as the trenching of newly resurfaced streets is a serious concern of San Diego's communities.
2. Enact the moratorium but not the Excavation Fee. This is not recommended as the City would have to continue to bear the cost of the streets service life being shortened by utility trenches.
3. Enact a trench cut moratorium that is shorter or longer than three years. This is not recommended as three years seemed to represent the best balance of having resurfaced streets and providing for utility work.

Respectfully submitted,

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Frank Belock, Jr.  
Director  
Engineering & Capital Projects

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Approved: George I. Loveland  
Senior Deputy City Manager

Note: Attachment A is not available in electronic format. A copy is available for review in the Office of the City Clerk.